STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

Verizon North Inc.	)	
	)	Docket No. 00-0511
Proposed Establishment of	)	
Collocation Tariffs	)	
	)	
Verizon South Inc.	)	
	)	Docket No. 00-0512
Proposed Establishment of	)	
Collocation Tariffs	)	(Consolidated)

EXCEPTIONS LANGUAGE OF THE
ILLINOIS RURAL COMPETITIVE ALLIANCE

For the reasons set forth in its Brief on Exceptions, the IRCA proposes the following changes to the Hearing Examiner's Proposed Order ("HEPO").

I. Provisioning Intervals

For the reasons set forth in Section I.a. and V. of the IRCA's Brief on Exceptions, the IRCA respectfully requests that the Commission replace Section III.D. of the HEPO with the following:

D. Commission Analysis and Conclusion

Based on our review of the record in this matter, we conclude that Verizon has failed to provide evidence supporting its request to implement provisioning intervals longer than the FCC's standard 90-calendar-day intervals.~~presented credible evidence supporting its proposed 76-business day interval for provisioning collocation requests~~. Based on the evidence that Verizon has provided for this record, the 105-calendar-day interval that Verizon proposes may be based to some extent on Verizon's experience in other states, ~~This interval is based on Verizon's actual experience rather~~ but it is no more than speculation as applied to Verizon's exchanges in Illinois. We further note that this interval was recognized as reasonable by the FCC, but only on an interim basis and only in states that had not set their own permanent rules. While Verizon~~'s~~ attempted to ~~evidence~~ support~~ing~~ these intervals ~~included~~ with a detailed explanation of the numerous steps involved in the provisioning of a collocation request, it never identified the timing for those individual steps or how that timing might by impacted by the conditions in its Illinois exchanges as compared to the exchanges used to develop its recommendation. Verizon bore the burden of proof on this issue and failed to provide evidence to support its position.

Finally, the Commission also notes that, although Verizon readily agreed at the hearing that it should, could and would initiate provisioning for CLECs even while the CLEC was seeking certification from this Commission, the Proposed Tariff language does not reflect that obligation. So that there is no ambiguity or confusion, the Commission directs Verizon to include appropriate language in its tariff covering this obligation.

~~More to the point, all parties agree that these numerous steps applied in every instance collocation was provided, whether the CLEC was large or small, and regardless of whether the central office was located in an urban or rural environment. Conversely, Staff and the IRCA did not present any evidence to support their assertions that the largely rural areas that Verizon serves warrant shorter intervals. Indeed, in our most recent determination regarding appropriate provisioning intervals for Ameritech Illinois, did not make a distinction between rural and urban areas. No party has presented any credible evidence in this record that would compel the Commission to make such a distinction in this proceeding. Moreover, if we were to make this comparison, the converse may be true. Rural installations may, in fact, require longer intervals due to travel time and availability of work forces in the rural area. Additionally, Verizon's Tariffs will apply to all entities seeking collocation at both urban and rural central offices.~~

~~Turning to Staff's and IRCA's second argument in which they assert that the Commission should ignore the FCC's *Waiver Order* because it is "interim" in nature and, instead, adopt the 90-day provisioning interval set forth in the FCC's *Reconsideration Order,* we refer to our most recent determination on this issue in Docket 99-0615. In that case, the Commission clearly rejected the application of the 90-calendar day interval of the FCC's *Reconsideration Order* stating—~~

> ~~The remaining issue is whether we should affirmatively adopt the ninety day default standard as the state standard as requested by Covad and originally by Staff. Upon our review of this issue and the FCC's apparent reluctance to impose this standard nationally, we conclude that we should not impose it as a state standard at this time. The willingness of the FCC to revisit this issue so quickly after deciding it in the first place indicates that at least some commissioners believed that the original decision may have been reached in haste and upon less than a full understanding of all of the elements that go into provisioning a collocation arrangement.~~

~~Order on Rehearing, Docket 99-0615, entered January 31, 2001, at 6. We continue to be of the opinion that the FCC's Reconsideration Order is not persuasive authority.~~

~~Additionally, in Docket 99-0615 this Commission recognized that a substantially similar period of time, 104-calendar days (Verizon's proposal results in 105-calendar days), is a reasonable period of time for Ameritech. Turning to this evidentiary record, the Commission is of the opinion that Verizon has demonstrated that its proposed provisioning interval is reasonable, supported by the record, and should be adopted.~~

II. Forecasting

For the reasons set forth in Section I.b. and I.c. of the IRCA's Brief on Exceptions, the IRCA respectfully requests that the Commission replace Section III.D. of the HEPO with one of the following alternatives:

[Alternative 1 - rejecting Verizon's forecasting requirements]

D. Commission Analysis and Conclusion

The Commission is of the opinion that Verizon's forecasting proposal ~~appears generally reasonable and should, with some modifications, be approved~~ should be rejected. While the Commission does encourage ~~The evidence indicates that this proposal encourages~~ CLECs, Verizon, and suppliers to communicate and share information that would make the collocation process more efficient, the Commission believes that allowing Verizon to establish unilaterally a two-month delay for a CLEC's failure to meet that schedule is excessive and anticompetitive. ~~The Commission is of the opinion that such communication makes the provisioning process more efficient from start to finish. Clearly, Verizon's forecasting proposal will require CLECs to take an active part in the provisioning process if they want to experience the shortest provisioning intervals. We agree and encourage such participation in the process.~~

The Commission believes that Verizon's provisioning intervals establish sufficient lead times for Verizon to handle unforecasted collocation demands within a reasonable definition of its current capacity. Consistent with this conclusion, Section 4.3 of the Proposed Tariffs can handle any real issues that Verizon has in managing unforecasted demand. First, the Commission concludes that Section 4.3 must be amended so that "present capacity" is never interpreted to be fewer than seven collocations within a geographic area within any three-month period. So long as Verizon maintains sufficient capacity to provision collocation at that rate, it can fulfill any collocation applications that are fewer than seven in a three-month period (or eight as a "spike" in demand). If Verizon receives a request for collocation that exceeds the greater of eight or 15% over its actual demand in a given three-month period, Verizon can invoke the terms of Section 4.3 to negotiate any appropriate changes to the tariffed schedule.

With that change, Verizon is protected from spikes in demand that will exceed its level of preparedness. Moreover, should Verizon be in danger of exceeding its "present capacity" as defined in Section 4.3 of the Proposed Tariffs as amended by this Order, CLECs will be on notice that failing to communicate with Verizon and make reasonable steps to forecast their demand will place them at risk of delays under Section 4.3.

~~We reject the arguments of Staff and IRCA that Verizon's forecasting proposal is inconsistent with the FCC *Waiver Order*. We also reject Staff's argument referencing other FCC Orders as unpersuasive. We note that despite its cited concerns the *FCC's Waiver Order* did, in fact, approve a forecasting requirement for Verizon which is very similar to that proposed in this proceeding. To argue that the Commission should not adopt Verizon's forecasting proposal because it violates a FCC order, when the FCC has already adopted a similar forecasting proposal is without merit and should be rejected.~~

~~We agree that the Commission should establish collocation standards for Verizon based on the record in this docket. As such, the record supports the adoption of forecasting as a beneficial tool that adds efficiency throughout the entirety of the collocation process. We are concerned, however, that Verizon's Proposed tariffs do not contain adequate assurances that CLECs will not be financially penalized for forecasted collocation that is not utilized by the CLEC. We, therefore, agree with IRCA's request that the Commission direct Verizon to revise its proposal to include language which makes clear that CLECs would be given notice of Verizon's intent to make expenditures on their behalf and have an opportunity for the CLEC, to adjust their collocation schedules to avoid additional financial liability. The Commission, therefore, directs Verizon to modify its tariffs to include such language.~~

[Alternative 2 - exempting initial collocations from Verizon's forecasting requirements and placing burden on Verizon to establish need for a delay]

D. Commission Analysis and Conclusion

The Commission is of the opinion that Verizon's forecasting proposal appears generally reasonable and should, with two important ~~some~~ modifications, be approved. The evidence indicates that this proposal encourages CLECs, Verizon, and suppliers to communicate and share information that would make the collocation process more efficient. The Commission is of the opinion that such communication makes the provisioning process more efficient from start to finish. Clearly, Verizon's forecasting proposal will require CLECs to take an active part in the provisioning process if they want to experience the shortest provisioning intervals. We agree and encourage such participation in the process.

However, Verizon must exempt from its forecasting requirment each CLEC's first application for collocation. As presently drafted, Verizon's forecasting intervals could frustrate the FCC's stated goal of encouraging new competitors. As envisioned by the FCC, a CLEC could -- on a single day -- inform the ILEC that it intends to adopt an agreement that the ILEC has with another carrier and request collocation in a particular office. Under the FCC's national standard collocation interval, the CLEC could be assured of having collocation space provisioned within the standard interval. But under Verizon's proposed forecasting requirements, Verizon would be allowed to delay provisioning an additional sixty days due to unforecasted demand so that the CLEC's collocation space need not be provisioned until perhaps more than 150 days after the initial request. This type of delay is inconsistent with the FCC's goal of expediting competitive entry.

By exempting from the forecasting requirement a CLEC's first collocation, new CLECs can make their initial entrance unhampered by the need to forecast. After its first collocation, a CLEC will have an existing contractual relationship with Verizon and a more obvious basis for communicating its continuing needs with Verizon. Based on that relationship, the CLEC would be competing as soon as possible and would be obligated to keep Verizon apprised of any expanded collocation needs.

In addtion, the Commission concludes that Section 4.3 must be amended so that "present capacity" is never interpreted to be fewer than seven collocations within a geographic area within any three-month period. So long as Verizon maintains sufficient capacity to provision collocation at that rate, it can fulfill any collocation applications that are fewer than seven in a three-month period (or eight as a "spike" in demand). If Verizon receives a request for collocation that exceeds the greater of eight or 15% over its actual demand in a given three-month period, Verizon can invoke the terms of Section 4.3 to negotiate any appropriate changes to the tariffed schedule.

Finally, as Verizon explained throughout the hearing that the Proposed Tariff Language provided Verizon with the ability to extend provisioning up to two months, but did not require the entire two-month delay. Verizon's witnesses emphasized that they would endeavor to meet the standard provisioning deadlines despite their authority to impose up to two months of delay. Under cross examination, Verizon even agreed that it would be willing to add language to its tariff that it would make efforts to provision even unforecasted demand as soon as possible. Tr. at 210-02. The Commission agrees that Verizon should be required to make a reasonable demonstration as to why a particular collocation application, even though unforecasted, cannot be handled under its standard intervals in order to determine how much of the two-month delay will be necessary. The Commission believes that the proper measure of whether Verizon may need to delay provisioning is whether an unforecasted application would require

Verizon to augment its collocation workforce in order to fill the application within its standard intervals. Stated another way, if an unforecasted application will cause a spike beyond Verizon's "present capacity" as that term is defined in Section 4.3 as amended by this Order, Verizon would have the alternative of delaying the application by up to two months as necessary to provision it without augmenting its workforce. Verizon should include such language in its Proposed Tariffs.

~~We reject the arguments of Staff and IRCA that Verizon's forecasting proposal is inconsistent with the FCC *Waiver Order*. We also reject Staff's argument referencing other FCC Orders as unpersuasive. We note that despite its cited concerns the *FCC's Waiver Order* did, in fact, approve a forecasting requirement for Verizon which is very similar to that proposed in this proceeding. To argue that the Commission should not adopt Verizon's forecasting proposal because it violates a FCC order, when the FCC has already adopted a similar forecasting proposal is without merit and should be rejected.~~

We agree that the Commission should establish collocation standards for Verizon based on the record in this docket. ~~As such~~With the foregoing changes, the record supports the adoption of forecasting as a beneficial tool that adds efficiency throughout the entirety of the collocation process. We are concerned, however, that Verizon's Proposed tariffs do not contain adequate assurances that CLECs will not be financially penalized for forecasted collocation that is not utilized by the CLEC. We, therefore, agree with IRCA's request that the Commission direct Verizon to revise its proposal to include language which makes clear that CLECs would be given notice of Verizon's intent to make expenditures on their behalf and have an opportunity for the CLEC, to adjust their collocation schedules to avoid additional financial liability. The Commission, therefore, directs Verizon to modify its tariffs to include such language.

III. Loaded Labor Rates

For the reasons set forth in Section II of the IRCA's Brief on Exceptions, the IRCA respectfully requests that the Commission replace Section V.D. of the HEPO with the following alternatives:

D. Commission Analysis and Conclusion

Verizon's tariffs must be just, reasonable and calculated in a manner consistent with the Illinois law and federal law. Moreover, Verizon's rates must be supported by cost studies which comport with the FCC's definition of TELRIC pricing which provides:

> Directly attributable forward-looking costs include the incremental costs of facilities and operations that are

> dedicated to the element. Such costs typically include the investment costs and expenses related to primary plant used to provide that element. Directly attributable forward-looking costs also include the incremental costs of shared facilities and operations. *Those costs shall be attributed to specific elements to the greatest extent possible*. For example, the costs of conduits shared by both transport and local loops, and the costs of central office facilities shared by both local switching and tandem switching, shall be attributed to specific elements in reasonable proportions. More broadly, certain shared costs that have conventionally been treated as common costs (or overheads) shall be attributed directly to the individual elements to the greatest extent possible. *The forward-looking costs directly attributable to local loops, for example, shall include not only the cost of the installed copper wire and telephone poles but also the cost of payroll and other back office operations relating to the line technicians, in addition to other attributable costs*.

(emphasis supplied). Federal Communication Commission's ("FCC") Local Competition Order. *First Report and Order*, CC Docket No. 96-98 and CC Docket No. 95-185 (August 8, 1996) ("*LCO*").

Based on our review of the record, we conclude that generally Verizon's rates -- other than its direct labor rates -- fail to ~~were designed in~~ conform~~ance~~ with the FCC's mandate as cited above, not because they could never be directly allocated, but because Verizon has failed to provide an evidentiary basis to do an appropriate allocation. Therefore. the Commission~~, however,~~ agrees with Staff and the IRCA that Verizon has incorrectly included in its labor rates costs that are shared, common or should be included in another labor rate. We find that Verizon's inappropriate inclusion of shared and common costs into it loaded labor rates could possibly increase the costs of collocation activities and thereby inhibit the growth of competition. In order to be consistent with the FCC's TELRIC pricing methodology, Verizon's loaded labor rates should capture costs that can be and are directly attributable to the labor activity related to the provisioning of collocation.

The Commission notes that Staff agrees with Verizon that the loaded labor rate should include direct basic, overtime premium, paid absence, and benefits. Staff, however, asserts that Verizon failed meet its burden in this proceeding with regard to certain aspects of its loaded labor rates. In particular, Verizon has failed to demonstrate in sufficient detail the nature and magnitude of the following forward looking costs which is seeks to recover: direct support and direct supervision, indirect supervision and support functions, tools, motor vehicles, dispatch and direct departmental expenses. We agree. The Commission concludes that Verizon's study failed to explain with specificity why and how the functions are necessary to provide the network elements. Indeed, Verizon's witness Ellis could not verify how these costs were directly correlated to collocation activities and we look at those costs as shared or common costs.

With regard to the IRCA's position on the issue of loaded labor rates we agree with ~~certain aspects of~~ their arguments ~~to the extent~~ that ~~it~~ mirror~~s~~ Staff's position. <u>Moreover, we agree with the IRCA's additional conclusions that Verizon has failed to explain how its collocation employees' benefits, overtime and paid leave are directly attributable to the employees' collocation activities. There are a number of logical ways Verizon's employees may actually earn these benefits, only one of which is on a direct hourly basis. Without that evidence, those costs can only be treated as shared or common.</u> ~~With regard to the IRCA's other arguments on this issue the Commission is of the opinion that they are extreme, unreasonable and inconsistent with the *LCO*. We believe the IRCA position untenable that only the collocation installer's direct wages, and nothing else—not even his/her benefits—can be allocated to collocation as a direct cost. Moreover, we find illogical the IRCA assertion that any cost element that has to be allocated over more than one service cannot be a direct cost.~~

~~The *LCO* is clear and unambiguous on that point. As cited above, the FCC mandates that shared costs should be attributed "directly to the individual elements to the greatest extent possible." (*Id.*) This is a logical approach because there are many costs that, while directly attributable to a specific cost element, also span more than one service. As Ms. Ellis testified- if a technician's time spent performing collocation can be allocated, it is only logical that the benefits that he is paid along with his wages can also be allocated. (Verizon Ex. 11.0, Ellis Surrebuttal, pp. 6-7). The Commission, therefore, rejects the IRCA's arguments as unpersuasive and without merit.~~

Based on the foregoing reasons, the Commission find Staff's <u>and the IRCA's</u> argument<u>s</u> on this issue compelling and we hereby direct the Company revise its tariffs consistent with the Commission's conclusions herein.

IV. <u>Mandatory Provisioning</u>

For the reasons set forth in Section IV of the IRCA's Brief on Exceptions, the IRCA respectfully requests that the Commission replace Section XV. of the HEPO with the following:

XV. MANDATORY PROVISIONING

In its Initial Brief, IRCA states that Verizon's Proposed Collocation Tariffs impose a number of services on CLECs without regard to the CLECs' ability to self- provision some of those services. The IRCA proposes that when a CLEC can self-provision any of the services (i.e. DC power and HVAC) that Verizon otherwise would provide, it should be allowed to choose whether to self-provision or to acquire the services out of the Proposed Collocation Tariffs

In response to IRCA's notion that the CLEC be allowed to self-provision any services that Verizon otherwise would provide, Verizon asserts that there is absolutely no support in the record for this proposal.

We find IRCA's point interesting, even if it may be factually premature~~ but incomplete~~. ~~In our review of the record we find no testimony or evidence to support IRCA's contentions. To the contrary~~, While, at the hearing Verizon witness Ries testified that he was not aware of how DC power and HVAC could be self-provisioned. (*Tr*. 186-88), the Commission sees no reason why a CLEC should be forced to acquire these services if the CLEC can show that it can reasonably self-provision these services The burden in such instances would, however, be on the CLEC. Moreover, if self-provisioning one service like HVAC caused a CLEC to require more of another service like DC power, Verizon would be entitled to charge its demonstrably increased costs. ~~The Commission, therefore, concludes that the IRCA proposals are unsupported by sufficient evidence in the record and should be rejected.~~

IV. Use of the ICM Cost Model

For the reasons set forth in Section V of the IRCA's Brief on Exceptions, the IRCA respectfully requests that the Commission replace Section X. of the HEPO with the following:

X. VERIZON'S INTEGRATED COST MODEL ("ICM")

Although the IRCA originally raised an issue regarding Verizon's use of its Integrated Cost Model ("ICM"), the IRCA dropped the issue in response to Verizon's fuller explanation and clarification in subsequent testimony. Therefore the Commission need not make any findings in regard to this issue.

~~IRCA witness Hendricks alleges that some of the collocation charges are developed using Verizon's ICM. Specifically, he alleges that certain estimates for power plant equipment and labor were so developed. (IRCA Ex. 2, Hendricks Rebuttal at 2). He testifies that this cost model has not been approved by the Commission and, therefore, it would be premature for the Commission to reach a decision on collocation charges developed using ICM.~~

~~Verizon responds that this record demonstrates that Mr. Hendricks has misinterpreted the EIS cost study. Verizon further notes that the record shows that the information referred to in the EIS cost study is not an output of ICM, but an input. Mr. Richter provided a step-by-step analysis explaining that the power plant and labor~~

~~estimates Mr. Hendricks referred to are inputs to both studies and are developed in studies external to both models. Accordingly, that they are not outputs of ICM as Mr. Hendricks incorrectly assumes.~~

~~Commission Analysis and Conclusion~~

~~The record demonstrates that the information referred to in the EIS cost study is an input rather than an out put of ICM. (Verizon Ex. 9.0, Richter Direct at 1). The record contains a step-by-step analysis explaining how power plant and labor estimates referred to by the IRCA are inputs to both studies and are developed in studies external to both models. Accordingly, IRCA's argument that Verizon's collocation cost proposal was calculated using estimates developed by ICM is incorrect, not supported by the record, and should be rejected.~~